

Jump-Start Planning When Celebrating These September Holidays

Happy National 401(k) Day!

Bookending the first week of September with Labor Day is a less recognized holiday that deserves more attention from planners, advisors, and savers: National 401(k) Day.

Though we are in an era of generally declining economic confidence, many Americans are still somewhat upbeat about their retirement savings. However, how they feel about their retirement may not match what is actually in their 401(k) accounts. National 401(k) Day is an ideal opportunity to help clients take stock and ensure that their plans keep pace with their expectations—for both themselves and their loved ones.

The State of 401(k) Plans in 2025

The 401(k) has become one of the most essential vehicles for building and transferring wealth in America.

As a product of late 20th-century tax policy that shifted retirement savings from employers to individuals, today roughly 6 out of 10 Americans say that they have a 401(k) or similar employer-sponsored defined contribution plan.¹ In 2025, the average 401(k) balance for Americans across all age groups is \$315,820, but this amount varies widely.²

Vanguard data shows that workers earning \$75,000–\$99,999 annually have a median balance of \$53,112 in retirement savings, nearly double that of those earning \$50,000–\$74,999 (\$27,528).³ Age matters as well: Empower reports that median balances for workers in their 40s (\$158,093) are more than double those for workers in their 30s (\$77,546),⁴ underscoring the power of compounding growth and saving early and consistently. Yet planning gaps remain. A recent Allianz survey found that only 55 percent of Americans say that they are saving enough for retirement.⁵

Just as relatively few people feel confident that they are doing enough to financially prepare for retirement, even fewer have created an estate plan. Roughly double the number of people (6 in

¹ *What Percentage of Americans Have a Retirement Savings Account?*, Gallup (June 2, 2025), <https://news.gallup.com/poll/691202/percentage-americans-retirement-savings-account.aspx>.

² Paul Deer, *The Average 401(k) Balance by Age*, Empower: The Currency (July 15, 2025), <https://www.empower.com/the-currency/life/average-401k-balance-age>.

³ Vanguard, *How America Saves 2025*, at 51 (2025), https://institutional.vanguard.com/content/dam/inst/iig-transformation/insights/pdf/2025/has/2025_How_America_Saves.pdf.

⁴ Deer, *supra* note 2.

⁵ *Americans' Financial Confidence on Decline Since 2020, Allianz Life Study Finds*, Businesswire (May 20, 2025), <https://www.businesswire.com/news/home/20250520601577/en/Americans-Financial-Confidence-On-Decline-Since-2020-Allianz-Life-Study-Finds>.

10)⁶ have some type of retirement account than the number of people who have an estate plan (1 in 3).⁷

And while retirement savings goals are relatively intuitive and straightforward, ideas such as growth rates, savings, and spending; estate planning issues such as the use of trusts; and Internal Revenue Service (IRS) rules for 401(k) beneficiaries can feel far more complex for your clients. However, they are just as critical to planning for their long-term security.

Passing on a 401(k): Outright or in Trust?

Retirement accounts and a primary residence are among the most valuable assets owned by US households.⁸ However, the rules related to transferring each of these after death are very different and call for distinct planning strategies.

Clients may assume that because they filled out a beneficiary form when they established their 401(k), there is nothing more they need to do. However, a great deal may have changed since then in terms of their life circumstances, their financial situation, and their beneficiaries' lives. Their form may be out of date and list someone they no longer want as a beneficiary, such as an ex-spouse or estranged child. They also may not understand that this simple way to pass on their account may not offer the most protection for their beneficiaries.

An outright inheritance (such as when someone is named on a beneficiary form) gives the beneficiary immediate and unrestricted access to the full account balance.

That approach may work well for financially responsible adult beneficiaries with no creditor concerns or divorce risk. However, what if the beneficiary is a minor, a young adult, or someone with a history of poor financial management? What if they have creditor issues or special needs that make direct inheritance risky?

Instead of directly naming individuals as beneficiaries of a retirement account, your clients can name a trust. After the account owner's death, the retirement account transfers to the trust, where it is held and administered according to the trust's terms for beneficiaries named in the trust. This approach can add an extra layer of protection and flexibility for their loved ones—and an extra layer of control for your clients. However, before helping clients name a trust as a beneficiary of their retirement account, it is important to understand that not all trusts are created equal.

Conduit and Accumulation Trusts for 401(k) Accounts

When the Setting Every Community Up for Retirement Enhancement (SECURE) Act came into effect in 2020, the rules for passing retirement accounts at death changed radically. Under current law, if a trust (such as a revocable living trust or a standalone retirement trust) named as

⁶ Gallup, *supra* note 1.

⁷ D.A. Davidson Survey Finds That Two-Thirds of Americans Do Not Have an Estate Plan, DADavidson, <https://www.dadavidson.com/Perspectives-Insights/Perspectives-Insights-Article/ArticleID/1391/D-A-Davidson-Survey-Finds-That-Two-Thirds-of-Americans-Do-Not-Have-an-Estate-Plan> (last visited Aug. 26, 2025).

⁸ Rakesh Kochhar & Mohamad Moslimani, 4. *The Assets Households Own and the Debts They Carry*, Pew Rsch. Ctr. (Dec. 4, 2023), <https://www.pewresearch.org/2023/12/04/the-assets-households-own-and-the-debts-they-carry>.

the beneficiary of a retirement account does not qualify as a see-through trust, the account must be paid out within five years, often the least favorable option. A *see-through trust* meets specific IRS requirements, allowing beneficiaries to be treated as if named directly and enabling more favorable payout timelines, usually 10 years. Therefore, the first step in retirement account planning with trusts is to ensure that the trust qualifies as a see-through trust.

Once it is established that a trust qualifies as a see-through trust, the next key decision is whether it will be structured as a conduit trust or an accumulation trust, each of which handles retirement account distributions differently.

Conduit Trust: The Pass-Through Option

With a conduit trust, any funds withdrawn from the 401(k) by the trustee must immediately flow through the trust to the beneficiary within the same calendar year as the withdrawal. The trust cannot hold or reinvest the funds in the trust for the beneficiary's benefit. Here are some of the features and effects of a conduit trust:

- **The beneficiary pays tax.** Withdrawn funds are taxed at the beneficiary's personal income rate rather than at the trust's tax rate.
- **Limited control and protection.** Once the funds have been distributed, the trustee has no say over how the beneficiary uses them, and the money loses the trust's protection from the beneficiary's creditors, predators, and potential divorces.
- **The trustee decides when to take withdrawals.** Generally, for most nonspouse beneficiaries, the entire balance of the 401(k) must be paid out within 10 years of the account owner's death. The 10-year rule applies whether the client's chosen beneficiary is directly named on the beneficiary designation form or inherits indirectly through a see-through trust. However, a major drawback to directly naming an individual as the beneficiary is that nothing prevents them from liquidating the retirement account before the applicable deadline—whether in large withdrawals or a single lump sum. Since all withdrawals from a 401(k) are subject to income tax, spreading them out over time is generally a better tax strategy that helps manage the tax burden while also reducing the risk of the beneficiary's mismanagement. A conduit trust can help prevent the beneficiary from withdrawing the entire account all at once by placing withdrawal decisions in the trustee's hands. The trustee can make withdrawals thoughtfully and possibly over time, considering income tax consequences and the client's wishes regarding the timing and amounts of distributions made to the beneficiary.

Accumulation Trust: The Discretionary Holding Tank

While retirement funds must still be withdrawn in accordance with the 10-year rule (for most nonspouse beneficiaries), an accumulation trust allows the trustee to decide whether to distribute those withdrawals to the beneficiaries or retain them in the trust, allowing for long-term management and greater protection for beneficiaries.

- **The trustee decides.** The trustee controls the timing and amount of the withdrawals from the retirement account (subject to the SECURE Act's limits) and the timing and amount of distributions from the trust to the beneficiary.

- **The trust pays tax (if funds are retained).** Withdrawals from retirement assets that remain in the trust beyond the calendar year in which they are taken are taxed at the trust's compressed income tax rates. If the funds are distributed to the beneficiary within that calendar year, the beneficiary is responsible for the income tax.
- **Stronger asset protection.** Funds kept in the trust stay shielded from creditors, lawsuits, or reckless spending, which may align with your client's overall estate planning goals.
- **SECURE Act and 10-year rule.** Subject to the limits of the SECURE Act, the trustee can often strategically spread withdrawals from the retirement account over the 10-year period to manage tax impacts and avoid a single large payout, all without having to immediately distribute those funds to the beneficiary. This flexibility makes accumulation trusts a preferred option for minor children, spendthrifts, or loved ones with special needs.

National 401(k) Day: A Labor of Love

It may not get the fanfare of Labor Day, but National 401(k) Day deserves some love as families celebrate summer's end. They are enjoying life now, but what about 10, 20, or even 50 years down the line?

The right trust can help clients overcome natural blind spots around long-term planning only if it is drafted with precision. Post-SECURE Act, even small missteps can trigger accelerated distributions and hefty tax bills. To learn more about planning strategies for your clients' retirement accounts, call us.